

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SHAQUIEL ANTHONY MENDEZ,

Defendant.

Case No. 3:23-cr-00045-03

**UNITED STATES' MOTION TO
RECONSIDER AND CLARIFY
ORDER (DOC. 84)**

The United States of America, by Mac Schneider, United States Attorney for the District of North Dakota, and Christopher C. Myers, Assistant United States Attorney, is in receipt of the Court's release Order (Doc. 84) and respectfully requests the Court to clarify the Order.

The Order involves the pre-trial, pre-plea release of Defendant to State custody approximately three months before trial in a case involving witness tampering in a murder case. The United States submits the Order has broad implications including, but not limited to:

1. Who is responsible for transportation to trial? Is a writ necessary? If the trial is continued, is another writ necessary?
2. Who is responsible for notification if the defendant is released from state custody? Is a detainer necessary? Who shall file the detainer?
3. Who is responsible for enforcing separatee requests made to USMS to ensure witness security¹?

¹ In this case, Joshua Brooks has plead guilty to murder in state court and is awaiting sentencing at the Cass County jail. Brooks will be housed at the North Dakota State Penitentiary once he is sentenced. Brooks is the victim of the witness tampering conspiracy in which Mendez is charged.

4. If the defendant escapes, who will be notified? When will they be notified? Will the USMS be involved in attempting to arrest the escapee without a UFAP warrant?

The United States is aware of the USMS perspective on these issues and will continue to assist USMS in managing their inmate housing challenges. The United States generally will have no objection to returning a defendant to state custody post-plea or post-trial with an anti-shuttling waiver provided there are no witness security concerns and the USMS bears the responsibility to make sure defendants appear for their hearings.

The United States requests the Court clarify its Order to address these issues so the United States can ensure the defendant is present at trial, ensure the safety of witnesses and take any other necessary measures. The United States would request that at a minimum, the Court Order the USMS to (1) ensure a detainer is filed at the ND State Penitentiary and (2) that the USMS transport the defendant for trial starting on February 6, 2024, or any trial date thereafter.

Dated: October 26, 2023

MAC SCHNEIDER
United States Attorney

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Andeus Smith, who is currently in federal custody awaiting sentencing, has agreed to plead guilty to state murder charges as part of this investigation.